

1984 S.C. Op. Atty. Gen. 270 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-117, 1984 WL 159924

Office of the Attorney General

State of South Carolina

Opinion No. 84-117

September 26, 1984

*1 The Honorable Herbert Kirsh
Member
House of Representatives
Box 31
Clover, South Carolina 29710

Dear Representative Kirsh:

You have asked us to advise you whether a county may forbid the sale of alcoholic beverages at private ball fields.

In an opinion, dated July 22, 1982, this Office concluded that it was questionable whether a county could prohibit the sale of beer at a ball field. Op. Atty. Gen., July 22, 1982, (copy enclosed). This conclusion was based in large part upon previous doubts expressed by this Office concerning whether counties, as opposed to municipalities, possessed general police powers. Then, in a more recent opinion, dated June 11, 1984, we concluded that counties probably do possess general police powers, although legislative clarification would be helpful to resolve all doubt in this area. Op. Atty. Gen., June 11, 1984, (copy enclosed).

However, with respect to the sale of alcoholic beverages, the General Assembly recently provided by Section 33, Part II of Act No. 512 of 1984 (Appropriation Act):

The South Carolina Alcoholic Beverage Control Commission is the sole and exclusive authority empowered to regulate the operation of all retail locations authorized to sell beer, wine, or alcoholic beverages and is authorized to establish conditions or restrictions which the commission in its discretion considers necessary before issuing any license or permit.

Although expressing certain reservations regarding the constitutionality of this provision, (based upon [Art. III, § 17 of the South Carolina Constitution](#)), this Office recently stated with respect to Section 33:

[t]he express language of this provision evinces the legislative intent that the state, through the Alcoholic Beverage Control Commission, shall be the exclusive authority to regulate the operation of all beer and wine outlets. That this is the legislative intent there can be no doubt, as the words used are most clear.

Op. Atty. Gen., August 22, 1984, (copy enclosed). Thus, while this Office now believes the county possesses the general police power to regulate sales of beer and wine, such regulation has been preempted by Section 33 of Act No. 512 of 1984. Accordingly, I would advise that, based upon this provision, a county may not prohibit sales of beer and wine at ball parks.

If we can be of further assistance, please let us know.

With kindest personal regards, I remain
Very truly yours,

Rebert D. Cook
Executive Assistant for Opinions

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